

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ADIL AHMED MIRZA

Plaintiff,

v.

ALEJANDRO MAYORKAS, Secretary, U.S.

Department of Homeland Security,

UR M. JADDOU, Director, U.S. Citizenship

and Immigration Services,

CHRISTOPHER WRAY, Director,

Federal Bureau of Investigation, and

SHINEKA MILLER, District Director,

U.S. Citizenship and Immigration Services

Atlanta District Office,

Defendants.

C.A.F.N. _____
Agency # 074 693 215

**PETITION FOR HEARING ON NATURALIZATION APPLICATION;
COMPLAINT FOR MANDAMUS; AND PETITION FOR INJUNCTIVE
RELIEF AND DECLARATORY JUDGMENT**

To the Honorable Judges of this Court:

Plaintiff, ADIL AHMED MIRZA, through counsel, alleges the following:

INTRODUCTION

1. This is a civil action for adjudication of Plaintiff's Form N-400 Application for Naturalization ("Form N-400"). Plaintiff files this Petition for Hearing on Naturalization Application to ask this Court to conduct a hearing on his naturalization application and make a decision in this long-delayed case.
2. Plaintiff alternatively requests mandamus and injunctive relief to seek an order from the Court compelling the Defendants to perform a duty owed to Plaintiff, namely, to adjudicate Plaintiff's Form N-400. Plaintiff requests declaratory relief seeking a judicial declaration that Defendants are required under law to complete the adjudication process for Plaintiff.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this Petition for Hearing on Naturalization Application pursuant to 8 U.S.C. § 1447(b). That section specifically provides for a hearing by the U.S. District Court on a naturalization application pending more than 120 days after the examination, with either a determination of the matter or the issuance of appropriate instructions to U.S. Citizenship and Immigration Services (USCIS) to determine this matter.

4. This is also a civil action for mandamus, injunctive and declaratory relief brought pursuant to 28 U.S.C. §§ 1331, 1361 to compel an officer or employee of the United States or a federal agency to perform a duty owed to Plaintiff.
5. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1346(a)(2), 1361 (to compel an officer or employee of the United States or agency to perform a duty owed to Plaintiff), and 2201, and 5 U.S.C. §§ 704 (no other adequate remedy) and 706 (to compel agency action unlawfully withheld or unreasonably delayed).
6. The Defendants listed in this pleading are each sued in their official capacity. Defendant Christopher Wray is Director of the Federal Bureau of Investigation, the agency which conducts criminal background checks on applicants filing for naturalization with USCIS. The remaining Defendants are responsible for the grant or denial of naturalization applications filed within the Atlanta USCIS district, pursuant to 8 U.S.C. § 1421, 8 C.F.R. §§ 310.1, 310.2 and 316.3.
7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District in which a defendant in the action resides,

where a substantial part of the events or omissions giving rise to the claim occurred, and where there is no real property involved in the action.

FACTS AND CAUSE OF ACTION

8. Plaintiff is eligible for naturalization pursuant to both 8 U.S.C. § 1427 and 8 C.F.R. § 316.2.
9. Plaintiff filed a Form N-400 Application for Naturalization with USCIS on or about March 16, 2022. **Exhibit A – N-400 Receipt Notice.**
10. Immigration Services Officer (ISO) Moses of the USCIS Atlanta District Field Office interviewed Plaintiff on his Form N-400 on August 11, 2022. ISO Moses indicated in the Form N-652 that “[Plaintiff] passed the English test and the U.S. history and government test. [. . .] A decision cannot be made yet about your application.” **Attachment B - Form N-652 Naturalization Interview Results.**
11. On or about August 24, 2022, USCIS sent Plaintiff a Notice of Continuance. This notice stated that “A current letter from the treating physicians/physiologist is required, stating your current mental state/diagnosis and medication prescribed.” Plaintiff submitted these documents on September 6, 2022 through his attorney. **Attachment C –**

USCIS Notice of Continuance; Attachment D – Plaintiff’s Response to USCIS.

12. As of February 6, 2023, USCIS stated online, “On June 29, 2022, we scheduled an interview for your Form N-400, Application for Naturalization, Receipt Number IOE0915594004.” **Attachment E – USCIS online case status information.**
13. To date Plaintiff has not received a determination of his application. Plaintiff still awaits a decision since filing almost 11 months ago and being interviewed over 5 months ago.
14. Defendants have unreasonably failed to issue a decision on his Form N-400. Plaintiff requests that this court order USCIS to adjudicate his Form N-400 without further delay.
15. Upon information and belief, no mandatory or discretionary ground exists for denial of Plaintiff’s Form N-400 Application for Naturalization.

CLAIM FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Conduct a hearing to adjudicate Plaintiff’s naturalization application and, upon approval, compel Defendants to schedule Plaintiff for the first available oath ceremony;

2. Compel the Defendants and those acting under them to perform their duty to adjudicate Plaintiff's naturalization application and, upon approval, to schedule Plaintiff for the first available oath ceremony;
3. Enjoin the Defendants from further delaying the adjudication of Plaintiff's naturalization application;
4. Grant such other and further relief as this Court deems proper under the circumstances; and
5. Grant attorney's fees and costs of court to Plaintiff under the Equal Access to Justice Act.

Respectfully submitted this 7th day of February, 2023.

Antonini and Cohen
Immigration Law Group

/s/ Marshall Lewis Cohen
Marshall Lewis Cohen
Attorney for Plaintiff
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CERTIFICATE OF COMPLIANCE

This is to certify that the attached Complaint for Writ of Mandamus and Declaratory Judgment has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

This 7th day of February 2023.

Antonini and Cohen
Immigration Law Group

/s/ Marshall Lewis Cohen
Marshall Lewis Cohen
Attorney for Plaintiff